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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/756,814

01/13/2004

James J. Spilker JR.

RSM051001

1515

29825

7590

03/18/2008

LAW OFFICE OF RICHARD A. DUNNING, JR.

343 SOQUEL AVENUE

SUITE 311

SANTA CRUZ, CA 95062

EXAMINER

FOTAKIS, ARISTOCRATIS

ART UNIT

PAPER NUMBER

2611

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/756,814

Applicant(s)

SPLIKER, JAMES J.

Examiner

ARISTOCRATIS FOTAKIS

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Chieh M. Fan/
Supervisory Patent Examiner, Art Unit 2611

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant respectfully submits that the description would enable one skilled in the art to make and use the claimed invention. Examiner submits that the disclosure of Applicants invention is inadequate. One skilled in the art would not have been able to use Applicants invention since there is no description on how to use the circuit of Fig.15 and make it compatible for ATSC signals as shown in Fig.18. More specifically, a designer would not know how to overcome the deficiencies that were presented by the Applicants prior art in Fig.15 and how would the invention as shown in figure 18 would overcome those deficiencies. Why would the circuitry of figure 15 would now work in Fig.18? The Applicant only discloses the names of the components listed in Fig.18 without providing any disclosure on how to generate the 10.76 MHz symbol clock.

Re claim 1, Applicant submits that none of the signals of Bradley have a pilot carrier. The Examiner submits that Bradley teaches of DQPSK and Scarpa teaches of QAM and VSB ATV signal where QAM, DQPSK, QPSK and VSB are well known television broadcast modulation methods. The claim does not recite of a pilot carrier and none of the recited components require the pilot carrier.

Applicant submits that Bradley does not appear to be capable of generating a symbol clock. The Examiner submits that discloses of a synchronization corrector (PLL, Col 4, Lines 28 - 30) that is capable generating a symbol clock.

Applicant submits that Bradley does not multiply the baseband signal and the delayed baseband signal but instead multiplies the baseband signal and a complex conjugate of the delayed baseband signal. Examiners submit that Bradley discloses the two components of Applicants claim. More specifically, a delay unit that delays the baseband signal and a multiplier that multiplies the baseband signal with the delayed baseband signal.

Applicant submits that Bradley does not show of the output of multiplier reaching the synchronization corrector but instead the output is used to generate metrics. Examiners submit that Bradley meets the recited limitation where it is shown of the synchronization corrector generating the symbol clock based on the output of the multiplier. The claimed limitation does not require of the output of multiplier reaching directly the synchronization corrector